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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 520 OF 2007
IN CRIMINAL APPEAL NO. 1261 OF 2006

Malik Rajjak Shekhdare ... Applicant
V/s
The State of Maharashtra ... Respondents

Mr. Harshad Bhadbhade for the applicant.
Mr. A.S. Shitole, A.P.P. for the State.

CORAM: D. G. DESHPANDE &
SMT. NISHITA MHATRE, JJ.

DATED: 4TH MAY, 2007.

P.C.:

1. The accused has been convicted by the Sessions Court under Section 302 read with 498-A read with 34 of the Indian Penal Code. The Sessions Court has found that the accused had set his wife on fire after throttling her.

2. It was argued on behalf of the applicant that the victim died an accidental death and the medical evidence supports the case of the applicants. According to the learned advocate for the accused, the Sessions Court has disbelieved the version of the applicant that it was an accidental death since there were no soot particles in the trachea or in the nasal cavity. The learned advocate points out that the medical evidence indicates that the victim died due to hypovolaemic shock which is

caused by volume of blood in the body diminishing and it was for this reason that there was no inhalation of smoke by the victim. He also points out that the PW-4 had seen the victim burning in the courtyard which was near the fire place, which fact supports the case of the applicant that it was an accidental death. The advocate for the accused, therefore, submits that the applicant be released on bail.

3. We are unable to accept these submissions made by the learned advocate. The victim was burning in the courtyard. She suffered 100% burn injuries despite which there is no evidence of her having raised an alarm and crying for help. Nor is there any evidence of the accused trying to rescue her when he was admittedly present in the house. Prima facie, it appears to us that the theory of accidental burns cannot be accepted and the victim’s death was homicidal in nature. It also appears to us unnatural that the accused did not try to rescue the victim.

4. Hence, bail refused. Application dismissed.

(D.G. DESHPANDE, J.)

(SMT. NISHITA MHATRE, J.)